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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,464	02/24/2004	Maurizio Tamburro	CM2601MC	8597
27752 7590 05/22/2009 THE PROCTER & GAMBLE COMPANY Global Legal Department - IP Sycamore Building - 4th Floor 299 East Sixth Street CINCINNATI, OH 45202				
EXAMINER SYKES, ALTREV C				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: MAURIZIO TAMBURRO, NICOLA D'ALESIO,
ANTONELLA PESCE, ACHILLE DI CINTIO,
GIOVANNI CARLUCCI, and ANDELIA ALESSANDRA

Application 10/785,464
Technology Center 1700

Mailed: May 22, 2009

Before ERIC W. HAWTHORNE *Supervisory Paralegal Specialist*
HAWTHORNE, *Supervisory Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on December 16, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S ANSWER

GROUND'S OF REJECTION TO BE REVIEWED ON APPEAL

A review of the file finds that the grounds of rejection to be reviewed on appeal of the claims as provided in the Examiner's Answer mailed August 5, 2008, under the heading "Grounds of rejection to be Reviewed on Appeal" is either unclear or is not consistent with the grounds of rejection of claims set forth in the last Office action of record. The grounds of rejection to be reviewed on appeal as provided in the Examiner's Answer must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Furthermore, the examiner must provide a clear statement of whether examiner agrees or disagrees with the statement of grounds of rejection to be reviewed as set forth in the brief and an explanation of any disagreement. *See also Manual of Patent Examining Procedure (MPEP) § 1207.02 (8th ed. Rev. 6, Sept 2007) for details.*

A review of the Examiner's Answer finds that it is unclear as to what rejected claims are on appeal as compared to the last Office action of record and the Examiner's Answer. Specifically, the Examiner's Answer dated August 5, 2008, does not address claims 1-12 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of copending Application No. 10/785,277 in view of Kellenberger et al.

Clarification of the record is required for all Grounds of rejection to be reviewed on appeal for all claims.

The examiner may issue a response on a PTOL-90.

CONCLUSION

Accordingly, it is ORDERED that the application is returned to the Examiner to:

- 1) clarify the disposition of Claims 1-12 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of copending Application No. 10/785,277 view of Kellenberger et al. that was filed in the Final Rejection dated October 18, 2006; and
- 2) such further action as may be required.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

EWH/dw

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